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## BOOK REVIEWS.

THE LAW OF REAL PROPERTY. By Raleigh C. Minor and John Wurts. St. Paul: West Publishing Company. 1910. pp. lix, 959.

As stated in the preface, this work is based on Minor's two-volume treatise, reference to which appears on almost every page; the purpose of the writer being to produce a text-book on the common law of real property showing American modifications, and also such statutory changes as are of general importance. The work is primarily for the law student and not for the practitioner; and as an elementary work for students it is deserving of high praise. In language, it is invariably clear, concise, and simple; in its treatment of the many topics discussed, it is, for its purposes, adequate and practical; and it will undoubtedly be found of much assistance to the student as an adjunct to the reading of cases. Among so many topics, all well treated, it is difficult to select some one for especial commendation; but we think the sections summarizing the law on the difficult subject of fixtures (§§ 22 *et seq.*) will be found distinctly helpful to student or lawyer.

We cannot, however, subscribe to the authors' views on the power of sale mortgage, namely, that the legal recognition of the power of sale as a means of foreclosure was "unfortunate"; that its exercise is so hedged around with statutory restrictions as to be seldom resorted to; and that even then it does not preclude jurisdiction in equity to foreclose (§ 547). We cannot understand why the power of sale mortgage should now be regarded with disfavor. It affords a simple, speedy, and comparatively inexpensive means of foreclosure, which, in the long run, is quite as much to the advantage of the mortgagor as of the mortgagee; since it enables the intending mortgagor to obtain his loan on more favorable terms. And as the mortgagee, in the exercise of the power, is held strictly accountable for a due and honest regard of the rights of the mortgagor, the interests of the mortgagor, in practice, are well protected. Indeed, in this respect, it seems difficult to see why it is more objectionable than the so-called trust deeds, which the authors appear to regard with favor (§ 545); since in practice the selection of the trustee under such deed would usually be dictated by the mortgagee. As to the statement that the power of sale is seldom resorted to, it is safe to say that in Massachusetts, at least, for the last fifty years, practically every mortgage of real estate executed has contained a power of sale; and that more than ninety-nine per cent of the mortgages foreclosed during that period have been foreclosed by an exercise of the power of sale contained in them. The only statutory regulation in Massachusetts as to the exercise of the power, relates first to the length of time prior to the sale that notice thereof must be published; and secondly to the place of publication of the newspaper in which such notice is printed. Indeed, the existence of a power of sale in a mortgage appears to afford a plain, adequate, and complete remedy at law, and hence to exclude the necessity of jurisdiction in equity, except in those exceptional cases where the power of sale plainly does not furnish the mortgagee with a proper and adequate means of enforcing his rights. Though not squarely decided, this seems to be the reasonable implication of *Hallowell v. Ames*, 165 Mass. 123, and *Old Colony Trust Co. v. Great White Spirit Co.*, 178 Mass. 92.

S. H. H.